

CR15-00707-SRB

MOTION HEARING

9-21-15

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America,)
)
Plaintiff,)
) CR15-00707-PHX-SRB (MHB)
vs.) Phoenix, Arizona
) September 21, 2015
Abdul Malik Abdul Kareem,) 3:29 p.m.
)
Defendant.)
)
)
)

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MOTION HEARING

APPEARANCES:

For the Government:

U.S. ATTORNEY'S OFFICE
By: Kristen Brook, Esq.
Joseph Edward Koehler, Esq.
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Phoenix, AZ 85004

For the Defendant Abdul Malik Abdul Kareem:

MAYNARD CRONIN BRICKSON CURRAN & REITER PLC
By: Daniel D. Maynard, Esq.
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Proceedings Reported by Stenographic Court Reporter
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CR15-00707-SRB

MOTION HEARING

9-21-15

P R O C E E D I N G S

(Called to the order of court at 3:29 p.m.)

THE COURT: Thank you. Please sit down.

THE CLERK: Criminal case 15-707. *United States of America v. Abdul Malik Abdul Kareem*. Time set for hearing regarding defendant's pro se motion to assign new counsel.

MS. BROOK: Good afternoon, Your Honor. Kristen Brook and Joe Koehler on behalf of the United States.

MR. MAYNARD: Good afternoon, Your Honor. Daniel Maynard on behalf of Abdul Malik Abdul Kareem and I have got Mary Plonin with me from my office. And my client is present and in custody.

THE COURT: Thank you.

I'm going to ask a few questions and I may inquire specifically of Mr. Kareem.

I want to specifically tell Mr. Kareem that he is not to disclose any of his conversations with his lawyer or with Ms. Plonin who is Mr. Maynard's legal assistant.

But the first thing that I want to do is to ask -- you have seen the letter, correct?

MS. BROOK: Yes.

THE COURT: And so, you know that one of the concerns that Mr. Kareem raised that he somehow seems to believe is a fault of his lawyer is that there was an FBI visit to the jail to take his DNA.

CR15-00707-SRB

MOTION HEARING

9-21-15

1 Do you know about that and do you know why that
2 happened and how it ended up being arranged?

3 MS. BROOK: Yes, Your Honor. It happened during the
4 summer. We reached out to defense counsel to find their
5 position in regards to the government collecting an additional
6 DNA sample, as well as fingerprints and a hair sample, to find
7 out whether or not they would consent to it or we should file
8 a motion and order with the Court.

9 Defense counsel stated that they would consent to it.
10 And then it was arranged a short time. Thereafter, that an
11 FBI agent went out to the facility in which Mr. Kareem is
12 being held to gather that with Mr. Maynard.

13 But it may have been Mary, actually, that was
14 present. I'm not sure. I believe Mr. Maynard was there as
15 well. Counsel for the government was not present. It was the
16 FBI agents.

17 THE COURT: And you were present, correct?

18 MR. MAYNARD: Yes, I was there. There were actually
19 two technicians from the FBI and one FBI agent along with
20 Mr. Kareem.

21 THE COURT: And I take it that you were -- you made
22 sure that you were present so that the only thing that
23 happened was that the DNA sample, the hair sample, and the
24 fingerprints were taken, and that there was no conversation
25 between any of the representatives of the FBI and your client?

CR15-00707-SRB

MOTION HEARING

9-21-15

1 MR. MAYNARD: That's exactly right. And, in fact, at
2 one point the FBI sort of was making casual conversation and I
3 had it stopped.

4 THE COURT: They like to do that, don't they. Just
5 kind of get a little conversation going and see what might be
6 said.

7 MR. MAYNARD: Sometimes.

8 THE COURT: That has been my experience in other
9 cases. I don't know about these agents.

10 And there's a concern here that on that occasion you
11 were not communicating much information to your client. Would
12 that also be because of the presence of the representatives of
13 the Federal Bureau of Investigation?

14 MR. MAYNARD: Well, you probably have to ask my
15 client, but I actually got there probably 15 or 20 minutes
16 before this and explained to him, I thought, exactly why we
17 were doing it and what was going to happen.

18 And then in the presence of the FBI -- and it took
19 close to an hour.

20 THE COURT: To take the DNA, the hair sample, and the
21 fingerprints?

22 MR. MAYNARD: Yes. We really did not talk during
23 that hour. We basically sat there quietly.

24 THE COURT: And, Mr. Kareem -- and I want you to just
25 answer this "yes" or "no."

CR15-00707-SRB

MOTION HEARING

9-21-15

1 Did your lawyer, in fact, come about 15 minutes
2 before the FBI representatives arrived that day?

3 ABDUL MALIK ABDUL KAREEM: Yes. Yes.

4 THE COURT: And you had an opportunity to talk for 15
5 minutes before they came?

6 ABDUL MALIK ABDUL KAREEM: Yes, we did.

7 THE COURT: And Mr. Maynard explained, I assume, that
8 it was pretty standard that --

9 ABDUL MALIK ABDUL KAREEM: Yes.

10 THE COURT: -- that these things were allowed to be
11 done?

12 ABDUL MALIK ABDUL KAREEM: Yes, he did.

13 THE COURT: Then what is your complaint about that?

14 ABDUL MALIK ABDUL KAREEM: Well, it's when I was --
15 when it was taken, when they were taking it, I was asking why
16 were they taking it. And my main question was where did they
17 find the DNA at and --

18 THE COURT: Okay. Do you understand that your
19 client -- that your lawyer is justifiably reluctant to have
20 conversation with you in the presence of the FBI?

21 ABDUL MALIK ABDUL KAREEM: Yeah.

22 THE COURT: And do you understand that the FBI is not
23 there to provide any information to you?

24 ABDUL MALIK ABDUL KAREEM: Yes.

25 THE COURT: And do you understand that it is in your

CR15-00707-SRB

MOTION HEARING

9-21-15

1 best interests for your lawyer to stop you from talking in the
2 presence of the FBI?

3 ABDUL MALIK ABDUL KAREEM: Yes.

4 THE COURT: So do you realize since you wrote this
5 letter that those complaints that you were making about that
6 specific occasion are really things that your lawyer was doing
7 in your best interests rather than things that you should be
8 concerned or suspicious about?

9 ABDUL MALIK ABDUL KAREEM: Yes.

10 THE COURT: Do you still have some problems with
11 Mr. Maynard?

12 ABDUL MALIK ABDUL KAREEM: No.

13 THE COURT: Do you want to withdraw your request for
14 new counsel?

15 ABDUL MALIK ABDUL KAREEM: Yes.

16 THE COURT: I think that's a very wise decision, sir.
17 And now you do know who the woman sitting next to you
18 is?

19 ABDUL MALIK ABDUL KAREEM: Yes.

20 THE COURT: She is Mr. Maynard's parallel. She has
21 been officially appointed by me to assist him in helping you
22 in this case.

23 ABDUL MALIK ABDUL KAREEM: Yes.

24 THE COURT: Are there any other matters now that this
25 request is withdrawn that we need to discuss today concerning

CR15-00707-SRB

MOTION HEARING

9-21-15

1 this case?

2 ABDUL MALIK ABDUL KAREEM: No.

3 THE COURT: No. And I'm not aware of any either.

4 MS. BROOK: That's correct. Nothing from the
5 government.

6 THE COURT: Mr. Maynard?

7 MR. MAYNARD: No, Your Honor.

8 THE COURT: Okay. Well, this was a satisfactory
9 resolution of what could have been a problem.

10 Thank you very much.

11 Court is in recess until four o'clock or until we
12 have -- do we have a pair? Well, let me just recess so we can
13 clear the courtroom and then Maureen can take roll call and
14 see who is here and we can get started early, if possible.

15 (Proceedings adjourned at 3:36 p.m.)

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CR15-00707-SRB

MOTION HEARING

9-21-15

C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 17th day of April, 2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE